

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

PINE POLLY, INC.,
Plaintiff,
v.

CIVIL ACTION NO.
13-11302-NMG

INTEGRATED PACKAGING FILMS IPF, INC.,
Defendant.

**REPORT AND RECOMMENDATION RE:
DEFENDANT'S MOTION TO DISMISS PURSUANT TO RULE 12(b) (6)
(DOCKET ENTRY # 7)**

February 27, 2014

BOWLER, U.S.M.J.

Pending before this court is a motion to dismiss certain counts of a complaint filed by plaintiff Pine Poly, Inc. ("plaintiff"). (Docket Entry # 7). Defendant Integrated Packaging Films IPF, Inc. ("defendant") seeks dismissal for failure to state a claim under Rule 12(b) (6), Fed.R.Civ.P. ("Rule 12(b) (6)'), and for failure to comply with Rule 9(b), Fed.R.Civ.P. ("Rule 9(b)'). (Docket Entry # 7). Plaintiff opposes the motion. (Docket Entry # 17). After conducting a hearing, this court took the motion under advisement.

PROCEDURAL BACKGROUND

Plaintiff initially brought this action in the Massachusetts Superior Court Department (Essex County) on April 29, 2013. On the basis of diversity jurisdiction, defendant

*Report and Recommendation accepted and
adopted. NMG/ton, USDC 3/19/14*